



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

OCT 16 2015

TO: Patricia C. Orrock
Chief Compliance Officer

Thomas E. Hintermister
Assistant Staff Director
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FROM: Lisa J. Stevenson *LJS by mgj*
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Attorney

SUBJECT: Proposed Interim Audit Report on the Utah Republican Party (LRA 1000)

I. INTRODUCTION

The Office of the General Counsel has reviewed the proposed Interim Audit Report ("proposed IAR") on the Utah Republican Party ("URP"). The proposed IAR contains six findings: Receipt of Prohibited Contributions (Finding 1), Receipt of Contributions that Exceed Limits (Finding 2), Misstatement of Financial Activity (Finding 3), Recordkeeping for Employees (Finding 4), Reporting of Debts and Obligations (Finding 5), and Apparent Excessive Contribution – Staff Advance (Finding 6).¹ We concur with the findings, and comment on Findings 5 and 6. If you have any questions, please contact Margaret J. Forman, the attorney assigned to this audit.

¹ We recommend that the Commission consider this document in Executive Session because the Commission may eventually decide to pursue an investigation of matters contained in the proposed IAR. 11 C.F.R. §§ 2.4(a) and (b)(6).

II. AUDIT METHODOLOGY ON STAFF ADVANCES IS APPROPRIATE

Findings 5 and 6 of the proposed IAR note that a URP staff member received \$197,850 in reimbursements from URP during the audit cycle, with most of these expenditures paid for with the URP staff member's credit card. Of those reimbursements, \$46,904 occurred more than 60 days from the date of the incurrence of the expense, as detailed on the URP staff member's reimbursement form. The Commission's regulations require staff advances to be treated as contributions, unless the payment is exempted from the definition of contribution under 11 C.F.R. § 100.79. 11 C.F.R. § 116.5(b). If the payment is not exempted, it shall be considered a contribution unless (1) the payment is for a staff member's travel expenses or subsistence expenses incurred while traveling on behalf of the committee, and (2) the committee reimburses the staff member within 60 days "after the closing date of the billing statement on which the charges first appear if the payment was made using a personal credit card, or within thirty days after the date on which the expenses were incurred if a personal credit card was not used." 11 C.F.R. § 116.5(b)(1) &(2).

We examine whether the Audit Division may use a date other than the closing date for the billing statement to determine if the expenditures incurred by the staff member result in a contribution. The Audit Division cannot determine the closing date for most of these expenses because the Committee did not provide a billing statement for most of the expenses. The URP provided the Audit Division with reimbursement forms, but only one credit card statement. The URP stated that it does not know the closing dates of the billing statements for the expenditures at issue, that the URP frequently received the reimbursement forms from the URP staff member well after the expenses were incurred, and that the URP issued reimbursements to the URP staff member within a calendar week of receipt of the reimbursement forms.

We conclude that the Audit Division may use a date other than the closing date for the billing statement in this case. Here, the Audit Division used the information available; *i.e.*, the reimbursement forms provided by the URP staff member, for the relevant expenditures. These forms included the date of incurrence of the expenses themselves. Since the date of incurrence can occur on or before the closing date of the credit card billing statement, it is possible that the Audit Division's calculation of the 60-day date, used in those instances in which the URP failed to provide the billing statements, could have resulted in more expenditures being treated as contributions. However, the regulations provide that unless the requirements of 11 C.F.R. § 116.5(b)(1) and (b)(2) are met, these expenditures shall be considered contributions. 11 C.F.R. § 116.5(b). Therefore, we believe that the Audit Division's use of the date of incurrence to apply 11 C.F.R. § 116.5(b)(2) is acceptable in this particular instance. If however, the URP is able to provide the Audit Division with the credit card billing statements or other appropriate documentation showing the closing dates for these expenditures, we conclude that the Audit Division must then use the closing date to calculate the timeliness of the reimbursements. See 11 C.F.R. § 116.5.